

RESOLUTION NO. R 01-01

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
PALOS VERDES ESTATES, CALIFORNIA, DENYING AN  
APPEAL OF THE ACTION OF THE PLANNING COMMISSION  
APPROVING A MISCELLANEOUS APPLICATION FOR  
ENCROACHMENTS IN THE PUBLIC RIGHT-OF WAY ADJACENT  
TO 868 VIA DEL MONTE SUBJECT TO CONDITIONS

The City Council of the City of Palos Verdes Estates does resolve as follows:

Section 1. On September 18, 2000, a Miscellaneous Application to permit after-the-fact approval of non-standard encroachments in the public right-of-way adjacent to 868 Via Del Monte, Palos Verdes Estates, California (the "Application") was submitted by Jose A. Sayula on behalf of the owner of said adjacent property (the "Applicant").

Section 2. On October 18, 2000, a hearing on the Application was held by the Planning Commission of the City of Palos Verdes Estates, at the conclusion of which the Planning Commission first determined that the Application was categorically exempt from the California Environmental Quality Act ("CEQA"), and then approved the Application subject to the conditions attached hereto as Exhibit A, which, among other things, require removal of certain of the existing encroachments.

Section 3. On November 6, 2000, an appeal of the Planning Commission's action was filed by the Applicant. The Planning Commission's determination that the Application is categorically exempt was not appealed.

Section 4. On December 12, 2000, the City Council conducted a hearing on the appeal, which hearing was duly and properly noticed. At such hearing, the Council received and considered an oral staff report and documentary evidence, including, but not limited to, minutes of the Planning Commission meeting, and received and considered oral and written testimony from the Applicant and others.

Section 5. Based upon the evidence presented, the City Council hereby finds and determines as follows:

- a. Each fact set forth in Section 1 through 4 above is true and correct.
- b. Each fact set forth in the memorandum for Agenda Item No. 5, Meeting Date December 12, 2000, from Allan Rigg to James B. Hendrickson, presented to the City Council on said date, is true and correct.
- c. Driveway approaches are permitted in the public right-of-way subject to standards adopted by the City. The driveway approach sought to be approved by the Application is inconsistent with those standards as it is constructed of materials not permitted and is at an angle to the street which is not perpendicular to the street.

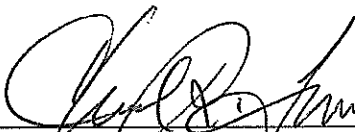
Visual impact to the surrounding properties from such nonstandard materials and angle is minimal, however, nor is much danger to the public created by such deviations from the established standards. In addition, a change in the driveway approach to make it perpendicular to the street would be difficult to accomplish at this time.

- d. The masonry mailbox for which approval is sought is four (4) feet in height and two feet six inches (2' 6") square. While masonry mailboxes which comply with established standards are permitted within the public right-of-way, the width of this mailbox exceeds the permitted width by twelve inches (12") and the depth exceeds the permitted depth by six inches (6"). Such excess width and depth, however, have relatively little visual impact to the surrounding properties and are not likely to create a substantial additional danger to the public over those masonry mailboxes which are otherwise permitted.
- e. Although walkways which meet specific size, location, and material criteria are permitted in the public right-of-way, the walkways sought to be approved in the Application do not meet any of such criteria. Further, they are installed in such a manner as to create the potential for liability on the part of the City as the stairs are of differing heights and the landings are of differing sizes.
- f. Such encroachments as the pedestrian gate pilaster, gate, wrought iron fence, and stone boulders are not permitted in the public right-of-way at all unless a benefit to the general public health, safety or welfare is provided. No such benefit is provided from those encroachments in this case. Further, at the Planning Commission hearing on this matter, the Applicant indicated he was willing to remove the boulders.

Section 6. Based upon the findings and determinations set forth herein, as supported by the evidence considered in connection therewith, the City Council finds and determines that the appeal of the Planning Commission's grant of the Application subject to conditions of approval should be denied, and the Application shall be approved subject to the conditions attached hereto as Exhibit A.

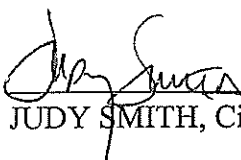
Section 7. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED this 11 day of January, 2001.

  
CHAD TURNER, Mayor

ATTEST:

APPROVED AS TO FORM:

  
JUDY SMITH, City Clerk

  
STEPHANIE R. SCHER, City Attorney

EXHIBIT "A"

MISCELLANEOUS APPLICATION

M-448-00

Conditions of Approval

R-01-01

1. This approval is granted for the land or land use as described in the application and any attachments thereto.
2. Prior to obtaining a building permit and within 30 day hereof, the applicant and property owner shall file with the Secretary of the Planning Department written acknowledgment of the conditions stated herein on forms provided by the Planning Department.
3. All buildings, fences, signs, roadways, parking areas, and other facilities or features shall be located and maintained as shown on the approved plans.
4. All buildings and structures shall be of the design as shown on the approved plans.
5. Compliance with and execution of all conditions listed herein shall be necessary prior to obtaining final building inspection clearance and/or prior to obtaining any occupancy clearance. Deviation from this requirement shall be only by written consent of the Director of Planning.
6.
  - a. The applicant shall have a maximum of one year, after approval of a Miscellaneous Application, within which to apply for and be issued a grading or building permit. The approval shall expire in the event such grading or building permit has not been issued within the prescribed one-year time period, or in the event such grading or building permit terminates or expires under any other provision of this Code or of the law of this State.
  - b. The Planning Director may approve a six month extension to the approval if an application for extension is filed prior to the expiration of the initial one year time period. Such an extension cannot be transferred to a new owner. Any subsequent extension applications must be made with the City Council.
7. All requirements of any law, ordinance, or regulation of the State of California, City of Palos Verdes Estates, and any other governmental entity shall be complied with.
8. This approval is subject to the applicant paying all fees and assessments to the City of Palos Verdes Estates, as required by Ordinance.
9. In the event the City determines that it is necessary to take legal action to enforce any of the provisions of these conditions, and such legal action is taken, the applicant shall be required to pay any and all cost of such legal action, including reasonable attorney's fees, incurred by the City, even if the matter is not prosecuted to a final judgment or is amiably resolved, unless the City should otherwise agree with the applicant to waive said fees or any part thereof. The foregoing shall not apply if the permittee prevails in the enforcement proceeding.

10. The applicant shall defend, indemnify, and hold harmless the City and its officers, agents, and employees from any claim, action or proceeding against the City or its officers, agents or employees to attach, set aside, void, or annul approval of this application. The City shall promptly notify the applicant of any such claim, action, or proceeding and shall cooperate fully in the defense.
11. An approval granted by the Planning Commission does not constitute a building permit or authorization to begin any construction. An appropriate permit issued by the Department of Building and Safety must be obtained prior to construction, enlargement, relocation, conversion, or demolition of any building or structure within the City.
12. **That driveway and mailbox may remain.**
13. **That second pilaster, hardscape, pedestrian gate, and boulders must be removed.**

STATE OF CALIFORNIA                    )  
COUNTY OF LOS ANGELES            ) SS:  
CITY OF PALOS VERDES ESTATES     )

I, Robin Ford, Deputy City Clerk for the City of Palos Verdes Estate, California, do hereby certify that the foregoing Resolution R01-01 was duly and regularly approved and adopted by the City Council of the City of Palos Verdes Estates at its regular meeting of the City Council on the 11th day of January, 2001, by the following vote:

AYES:            COUNCILMEMBERS:        Turner, Thompson, Flood, Mackenbach

NOES:           COUNCILMEMBERS:

ABSENT:         COUNCILMEMBERS:        Humphrey

  
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Robin M. Ford, Deputy City Clerk